UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,823	08/20/2003	Rudiger Theis	EP0201365	1822

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EXAMINER
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ART UNIT	PAPER NUMBER
2194	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 June 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is responsive to the amendment filed 06/23/2008.

Claims 1-17 are currently pending in this application. Claims 15-17 have been

added. Claims 1, 8, and 12 are independent claims.

Please note that the examiner formerly in charge of examining this application,

Mark Francis, is no longer employed at the USPTO. Van H. Nguyen (Art Unit

2194) is now in charge of examining this application. Please update future

correspondence accordingly.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 12-14 and 17 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Regarding independent claim 12, the claim recites a "**program code**". The

program code disembodied from execution by a computer or storage on a tangible

computer readable medium is nonstatutory under 35 U.S.C. 101.

For the same reasons discussed supra with respect to independent claim 12,

dependent claims 13, 14, and 17 fall outside the scope of § 101.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pratt (U.S. Pat 7,043,537) in view of **Venkatraman et al.**(US 6139177 A)

With respect to claim 12, Pratt discloses a program code executable in a Web

browser and configured to cache update information received via a program-

controlled device (Col 2:15-30, "…remote client may store the downloadable unit

(e.g. in cache) for continued management…") and to program the update

information that has been cached into the program-controlled device (Col 4:30-

47, "…The software program compiler compiles a software program into machine code…").

Pratt, however, does not specifically teach the Web browser is provided on a Web-accessing device that is separate from the program-controlled device.

Venkatraman teaches the Web browser is provided on a Web-accessing device that is separate from the program-controlled device *(see col.3, lines 20-52)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Pratt with Venkatraman because Satoh's teaching would have provided the capability for avoiding the extra cost and space required for dedicated web server hardware for the device.

With respect to claims 1 and 8, the rejection of claim 12 above is incorporated herein in full. Additionally, Pratt discloses a program in a program-controlled device (Col 2:15-25, "…to update available features,…or version information by modifying only…") wherein the method comprises the steps of: causing the device, initiated by the external Web browser (e.g. See Fig. 2 ,element 110 Remote Client), to request update information for an update of a program of the program-controlled device from the Web server; (Col 2:15-25, "...thereby enabling the programmer to update available features...", Col 3:20-36, '…to download a software …the most up-to-date network device management

software...to update or improve the available functions...") downloading the

requested update information from the Web server (e.g. see Fig. 2, element 185

Web server) to the Web browser,(e.g. See Fig. 2 element 130 Web engine)

wherein the requested update information is being passed through the program-

controlled device to the Web browser; (Col 2:56-67, "...The remote client

requests a function...locates and forwards the corresponding downloadable

unit...")

caching the requested update information by a program code executed in the Web

browser; (Col 2:15-30, "...remote client may store the downloadable unit(e.g. in

cache) for continued management...")

and programming the requested update information into the program-controlled

device by the program code executed in the web browser (Col 4:30-47, "...The

software program compiler compiles a software program into machine code...")

With respect to claims 2, 10, and 13, the rejection of claims 1, 8 and 12 are

incorporated respectively and further, Pratt discloses that the program code

executable in the external Web browser is a Java applet. (Col 2:35-45, "...in a

Java environment, an applet will be used to manage the network device...")

With respect to claim 3, the rejection of claim 1 is incorporated and further, Pratt

discloses further comprising the steps of storing the program code executable in

the external Web browser in the program-controlled device and making available

the program code to the Web browser by the program-controlled device for a

duration of an update that is performed. (Col 2:15-30, "...remote client may store

the downloadable unit(e.g. in cache) for continued management...")

With respect to claim 4, the rejection of claim 1 is incorporated and further, Pratt

discloses further comprising the steps of storing the program code executable in

the external Web browser in a Web server and making available the program code

to the external Web browser by the program-controlled device. (Col 7:40-50,

"...then sends the located downloadable unit to the web server, which transmits it

to the remote client...")

Regarding claim 5, Venkatraman discloses trivial file transfer protocol is

employed in the step of programming (col.3, lines 11-19).

Regarding claims 6 and 11,

Venkatraman discloses checking with at least one of the program code executable

in the external Web browser and the program-controlled device at least one of

completeness or error-freeness of the update information before the step of

programming the update information into the program-controlled device and,

when an error is detected, carrying out error elimination with at least one of the

program code executable in the external Web browser and the program-controlled

device (col.3, lines 31-53).

Regarding claim 14,

Venkatraman discloses check the update information received via the program-controlled device for at least one of completeness and error-freeness and configured to perform error elimination, when an error has been found, before programming the update information into the program-controlled device (col.3, lines 39-53).

With respect to claim 7, Pratt discloses in the step of programming the update information into the program-controlled device, a user input the scope of the program code executable in the external Web browser is enabled. (Col 5:45-58, "...the user interface...to enable communication via the output device and the input device...").

With respect to claim 9, Pratt discloses the stored program code executable in the external Web browser is made available to the connected external Web browser for carrying out an update of the at least one program. (Col 3:20-37, "...to update or improve the available functions, a revised downloadable unit...")

With respect to claims 15-17, the program-controlled device is a measuring device that performs program-controlled measurements (col.4, lines 18-62).

Response to Arguments

4.   Applicant's arguments with respect to claims 1-17 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

5.   The prior art made of record, see PTO 892, and not relied upon is considered

pertinent to applicant's disclosure. Applicant should review these references

carefully before responding to this office action.

Contact Information

6.   Any inquiry or a general nature or relating to the status of this application should
be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to VAN H. NGUYEN whose telephone number is
(571) 272-3765. The examiner can normally be reached on Monday-Thursday
from 8:30AM-6:00PM. If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, MENG-AI AN can be reached at (571)
272-3756.

The fax phone number for the organization where this application or proceeding is
assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/
Primary Examiner, Art Unit 2194